

INTERIM STUDY PROPOSAL 2019-154

State of Arkansas
92nd General Assembly
Second Extraordinary Session, 2020

A Bill

ANS/ANS
SENATE BILL

By: Senator Irvin

Filed with: Senate Committee on Public Health, Welfare, and Labor
pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

AN ACT TO DEFINE THE SCOPE UNDER WHICH MEDICAL
PROFESSIONALS MAY ENGAGE IN EMERGENCY SERVICES DURING
THE CORONAVIRUS DISEASE 2019 (COVID-19) OUTBREAK; TO
DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO DEFINE THE SCOPE UNDER WHICH MEDICAL
PROFESSIONALS MAY ENGAGE IN EMERGENCY
SERVICES DURING THE CORONAVIRUS DISEASE
2019 (COVID-19) OUTBREAK; AND TO DECLARE
AN EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. TEMPORARY LANGUAGE. DO NOT CODIFY. Arkansas Code Title 12
is amended to add a new chapter to read as follows:

CHAPTER 89

CORONAVIRUS DISEASE 2019 (COVID-19) ACT OF 2020

12-89-101. Title.

This chapter shall be known and may be cited as the "Coronavirus
Disease 2019 (COVID-19) Act of 2020".

12-89-102. Definitions.

1 As used in this chapter:

2 (1) "COVID-19" means coronavirus disease 2019 or the virus that
3 causes coronavirus disease 2019 in some individuals;

4 (2) "Healthcare facility" means a facility that is licensed,
5 registered, certified, or otherwise legally permitted to provide medical
6 support services in the state;

7 (3) "Healthcare provider" means a healthcare professional who is
8 licensed, registered, certified, or otherwise legally permitted to practice
9 in the state; and

10 (4) "Physician" means an individual licensed to practice
11 medicine in the state under the Arkansas Medical Practices Act, § 17-95-201
12 et seq., § 17-95-301 et seq., and § 17-95-401 et seq.

13
14 12-89-103. Healthcare facilities and healthcare providers.

15 (a) If the Governor declares a disaster under the Arkansas Emergency
16 Services Act of 1973, § 12-75-101 et seq., or requests that the State Board
17 of Health take action under § 20-7-110, during the period of the disaster, as
18 part of the state's response to coronavirus disease 2019 (COVID-19) and
19 according to the declaration of the United States Secretary of Health and
20 Human Services under the Public Readiness and Emergency Preparedness Act, 42
21 U.S.C., 247d-6d, that was published in the Federal Register on March 17 2020,
22 a healthcare facility or healthcare provider may, within the scope of their
23 respective licensure and for the purpose of diagnosing, treating, mitigating,
24 or curing coronavirus disease 2019 (COVID-19), or any complication arising
25 from coronavirus disease 2019 (COVID-19), use any drug, device, or product
26 approved or cleared under the Federal Food, Drug and Cosmetic Act, 21 U.S.C.
27 §§ 301-392, licensed under the Public Health Service Act, 42 U.S.C. §§ 201-
28 291n, or authorized for emergency use under an investigative device exemption
29 or investigational drug application of the Federal Food, Drug and Cosmetic
30 Act, 21 U.S.C., §§ 301-392.

31 (b)(1) If the Governor declares a disaster under the Arkansas
32 Emergency Services Act of 1973, § 12-75-101 et seq., or requests that the
33 State Board of Health take action under § 20-7-110, during the period of the
34 disaster, a physician or other licensed healthcare provider or a healthcare
35 facility may pursuant to § 12-75-103(7) provide medical and health care,

1 assistance, and advice in response to the coronavirus disease 2019 (COVID-19)
2 outbreak during the declared disaster.

3 (2) The emergency management functions of providing the medical
4 and health care, assistance, and advice under subdivision (b)(1) of this
5 section shall include:

6 (A) Triage, diagnostic testing, and treatment to patients
7 with known or suspected coronavirus disease 2019 (COVID-19);

8 (B) Services provided in response to personnel shortages
9 caused by coronavirus disease 2019 (COVID-19);

10 (C) Cancelling, postponing, or denying elective surgeries
11 or procedures, or other routine care, as directed by the Department of
12 Health;

13 (D) Redeploying or cross-training staff not typically
14 assigned to certain duties, to the extent necessary to respond to the
15 coronavirus disease 2019 (COVID-19) outbreak;

16 (E) Planning to or enacting crisis standards-of-care
17 measures, including without limitation modifying numbers of beds, preserving
18 personal protective equipment, and triaging access to services or equipment;
19 and

20 (F) Reducing recordkeeping requirements to the extent
21 necessary for healthcare providers and healthcare facilities to perform tasks
22 as may be necessary to respond to the coronavirus disease 2019 (COVID-19)
23 outbreak.

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25 SECTION 2. EFFECTIVE DATE. Section 1 of this act is effective through
26 April 1, 2021.

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28 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the
29 General Assembly of the State of Arkansas that healthcare providers and
30 healthcare facilities have been limiting their services due to the potential
31 threat of liability for practicing outside the scope of their licensure
32 during the disaster caused by the coronavirus disease 2019 (COVID-19), or by
33 severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) or any of its
34 mutations, and this potential threat of liability is creating uncertainty for
35 healthcare professionals in Arkansas; that providing clarity to healthcare
36 providers and healthcare facilities can encourage additional medical

1 assistance to Arkansans and thereby reduce the spread of coronavirus disease
2 2019 (COVID-19) in Arkansas; and that this act is immediately necessary
3 because Arkansans need access to medical care, and healthcare providers and
4 healthcare facilities need clarification concerning their respective scopes
5 of practice during the disaster caused by coronavirus disease 2019 (COVID-
6 19), or by severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) or
7 any of its mutations outbreak in order to provide much needed medical
8 services and support in Arkansas. Therefore, an emergency is declared to
9 exist, and this act being immediately necessary for the preservation of the
10 public peace, health, and safety shall become effective on:

11 (1) The date of its approval by the Governor;

12 (2) If the bill is neither approved nor vetoed by the Governor,
13 the expiration of the period of time during which the Governor may veto the
14 bill; or

15 (3) If the bill is vetoed by the Governor and the veto is
16 overridden, the date the last house overrides the veto.

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19 Referred by Senator Irvin

20 Prepared by: ANS/ANS